

HOUSE BILL No. 1427

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-2-5-1; IC 20-5-2-2; IC 20-6.1.

Synopsis: Noncertificated superintendents. Provides that a superintendent of schools is not required to hold a teacher's or superintendent's license. Repeals a requirement that a county superintendent of schools must have five years of successful teaching experience and hold a license.

Effective: July 1, 2005.

Turner

January 13, 2005, read first time and referred to Committee on Education.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1427

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-5-2-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 2. In carrying out the school
3 purposes of each school corporation, its governing body acting on its
4 behalf shall have the following specific powers:

5 (1) In the name of the school corporation, to sue and be sued and
6 to enter into contracts in matters permitted by applicable law.

7 (2) To take charge of, manage, and conduct the educational affairs
8 of the school corporation and to establish, locate, and provide the
9 necessary schools, school libraries, other libraries where
10 permitted by law, other buildings, facilities, property, and
11 equipment therefor.

12 (2.5) To appropriate from the general fund an amount, not to
13 exceed the greater of three thousand dollars (\$3,000) per budget
14 year or one dollar (\$1) per pupil, not to exceed twelve thousand
15 five hundred dollars (\$12,500), based upon the school
16 corporation's previous year's average daily membership (as
17 defined in IC 21-3-1.6-1.1) for the purpose of promoting the best



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interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish such personal property. All purchases and contracts delineated under the powers given under subdivision (3) and this subdivision shall be subject

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solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of agencies of the state as provided in section 3 of this chapter.

(5) To sell or exchange any of such real or personal property or interest therein, which in the opinion of the governing body is not necessary for school purposes, in accordance with IC 20-5-5, to demolish or otherwise dispose of such property if, in the opinion of the governing body, it is not necessary for school purposes and is worthless, and to pay the expenses for such demolition or disposition.

(6) To lease any school property for a rental which the governing body deems reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children aged five (5) through fourteen (14) years that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if the property subject to a long term lease is being paid for from money in the school corporation's debt service fund, then all proceeds from the long term lease shall be deposited in that school corporation's debt service fund so long as the property has not been paid for. The governing body may, at its option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(7) To employ, contract for, and discharge superintendents (**who are not required to hold a license under IC 20-6.1-3**), supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including but not limited to the making of schedules, the keeping and

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analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and such other personnel or services, all as the governing body considers necessary for school purposes. To fix and pay the salaries and compensation of such persons and such services. To classify such persons or services and to adopt schedules of salaries or compensation. To determine the number of such persons or the amount of services thus employed or contracted for. To determine the nature and extent of their duties. The compensation, terms of employment, and discharge of teachers shall, however, be subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers shall be subject to and shall be governed by any laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of such school corporation shall be submitted to the state board of accounts for approval to the end that such services shall be used by the school corporation when the governing body determines that it is in the best interests of the school corporation while at the same time providing reasonable accountability for the funds expended.

(8) Notwithstanding the appropriation limitation in subdivision (2.5), when the governing body by resolution deems a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including but not limited to attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit such employee to be absent in connection with such trip without any loss in pay and to refund to such employee or to such member his reasonable hotel and board bills and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities. (9) To transport children to and from school, when in the opinion of the governing body such transportation is necessary, including but not limited to considerations for the safety of such children and without regard to the distance they live from the school, such transportation to be otherwise in accordance with the laws applicable thereto.

(10) To provide a lunch program for a part or all of the students

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1 attending the schools of the school corporation, including but not
 2 limited to the establishment of kitchens, kitchen facilities, kitchen
 3 equipment, lunch rooms, the hiring of the necessary personnel to
 4 operate such program, and the purchase of any material and
 5 supplies therefor, charging students for the operational costs of
 6 such lunch program, fixing the price per meal or per food item. To
 7 operate such lunch program as an extracurricular activity, subject
 8 to the supervision of the governing body. To participate in any
 9 surplus commodity or lunch aid program.

10 (11) To purchase textbooks, to furnish them without cost or to
 11 rent them to students, to participate in any textbook aid program,
 12 all in accordance with applicable law.

13 (12) To accept students transferred from other school corporations
 14 and to transfer students to other school corporations in accordance
 15 with applicable law.

16 (13) To levy taxes, to make budgets, to appropriate funds, and to
 17 disburse the money of the school corporation in accordance with
 18 the laws applicable thereto. To borrow money against current tax
 19 collections and otherwise to borrow money, in accordance with
 20 IC 20-5-4.

21 (14) To purchase insurance or to establish and maintain a
 22 program of self-insurance relating to the liability of the school
 23 corporation or its employees in connection with motor vehicles or
 24 property and for any additional coverage to the extent permitted
 25 and in accordance with IC 34-13-3-20. To purchase additional
 26 insurance or to establish and maintain a program of self-insurance
 27 protecting the school corporation and members of the governing
 28 body, employees, contractors, or agents of the school corporation
 29 from any liability, risk, accident, or loss related to any school
 30 property, school contract, school or school related activity,
 31 including but not limited to the purchase of insurance or the
 32 establishment and maintenance of a self-insurance program
 33 protecting such persons against false imprisonment, false arrest,
 34 libel, or slander for acts committed in the course of their
 35 employment, protecting the school corporation for fire and
 36 extended coverage and other casualty risks to the extent of
 37 replacement cost, loss of use, and other insurable risks relating to
 38 any property owned, leased, or held by the school corporation. To:

39 (A) participate in a state employee health plan under
 40 IC 5-10-8-6.6;

41 (B) purchase insurance; or

42 (C) establish and maintain a program of self-insurance;

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1 to benefit school corporation employees, which may include
 2 accident, sickness, health, or dental coverage, provided that any
 3 plan of self-insurance shall include an aggregate stop-loss
 4 provision.

5 (15) To make all applications, to enter into all contracts, and to
 6 sign all documents necessary for the receipt of aid, money, or
 7 property from the state government, the federal government, or
 8 from any other source.

9 (16) To defend any member of the governing body or any
 10 employee of the school corporation in any suit arising out of the
 11 performance of ~~his~~ **the person's** duties for or employment with
 12 the school corporation, provided the governing body by resolution
 13 determined that such action was taken in good faith. To save any
 14 such member or employee harmless from any liability, cost, or
 15 damage in connection therewith, including but not limited to the
 16 payment of any legal fees, except where such liability, cost, or
 17 damage is predicated on or arises out of the bad faith of such
 18 member or employee, or is a claim or judgment based on ~~his~~
 19 malfeasance in office or employment.

20 (17) To prepare, make, enforce, amend, or repeal rules,
 21 regulations, and procedures for the government and management
 22 of the schools, property, facilities, and activities of the school
 23 corporation, its agents, employees, and pupils and for the
 24 operation of its governing body, which rules, regulations, and
 25 procedures may be designated by any appropriate title such as
 26 "policy handbook", "bylaws", or "rules and regulations".

27 (18) To ratify and approve any action taken by any member of the
 28 governing body, any officer of the governing body, or by any
 29 employee of the school corporation after such action is taken, if
 30 such action could have been approved in advance, and in
 31 connection therewith to pay any expense or compensation
 32 permitted under IC 20-5-1 through IC 20-5-6 or any other law.

33 (19) To exercise any other power and make any expenditure in
 34 carrying out its general powers and purposes provided in this
 35 chapter or in carrying out the powers delineated in this section
 36 which is reasonable from a business or educational standpoint in
 37 carrying out school purposes of the school corporation, including
 38 but not limited to the acquisition of property or the employment
 39 or contracting for services, even though such power or
 40 expenditure shall not be specifically set out herein. The specific
 41 powers set out in this section shall not be construed to limit the
 42 general grant of powers provided in this chapter except where a

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1 limitation is set out in IC 20-5-1 through IC 20-5-6 by specific
2 language or by reference to other law.

3 SECTION 2. IC 20-6.1-1-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~Definition,~~
5 ~~"Teacher"~~. As used in this article, the term "teacher" means **the**
6 **following:**

7 (1) A professional person whose position in the school
8 corporation requires certain teacher training preparations and
9 licensing. The term includes, but is not limited to, any
10 ~~superintendent~~, supervisor, principal, attendance officer, teacher,
11 or librarian.

12 (2) **A superintendent who holds a license under IC 20-6.1-3.**

13 SECTION 3. IC 20-6.1-4-18 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. ~~Superintendent~~
15 ~~Contracts~~. Each contract entered into by a governing body and its
16 superintendent is subject to the following conditions:

17 (1) **If the superintendent holds a license under IC 20-6.1-3**, the
18 basic contract is in the form of the regular teacher's contract.

19 (2) The contract is for a term of at least thirty-six (36) months.

20 (3) The contract may be altered or rescinded for a new one at any
21 time by mutual consent of the governing body and the
22 superintendent. This consent must be in writing and must be
23 expressed in a manner not inconsistent with sections 18 through
24 20 of this chapter.

25 (4) **If the superintendent holds a license under IC 20-6.1-3**, the
26 rights of ~~a~~ **the** superintendent as a teacher under any other law are
27 not affected.

28 SECTION 4. IC 20-2-5-1 IS REPEALED [EFFECTIVE JULY 1,
29 2005].

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